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CERTIFICATE OF FACSIMILE

I hereby certify that this correspondence is being deposited via facsimile to The Honorable Commissioner in the United States Patent and Trademark Office, Attention: Dameron L. Jones whose telephone number is (571) 272-0617 and fax number is (703) 872-9306 on November 22, 2004.

Rhonda A. Etienne 11/22/04  
Rhonda A. Etienne Date

PATENT

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Achilefu et al.  
Serial No.: 09/757,333  
Filed: January 9, 2001  
Art Unit: 1616  
Confirmation No.: 5506  
Examiner: Jones, Dameron L.  
Title: VERSATILE HYDROPHILIC DYES  
Atty. Docket No.: MRD-67

Cincinnati, OH 45202

November 22, 2004

Mail Stop Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

TERMINAL DISCLAIMER TO OBLIGATE A NONSTATUTORY  
DOUBLE PATENTING REJECTION (37 CFR 1.321(b))

1. I, Beverly A. Lyman, the attorney of record for this invention, submit this disclaimer and certificate on behalf of the assignee, Mallinckrodt Inc., a Corporation of Delaware having its principal place of business at 675 McDonnell Boulevard, St. Louis, Missouri 63134, the Disclaimant herein.

2. I hereby certify that Mallinckrodt Inc. is the assignee of the entire right, title and interest in the patent application identified above by virtue of Assignment(s) of record, recorded in the Patent and Trademark Office at Reel/Frame 011702/0695. I further certify that I have reviewed all the documents in the chain of title of the patent application identified above and, to the best of my knowledge and belief, title is in the assignee identified above.

3. I am empowered to act on behalf of the assignee as identified below.

Disclaimer

4. Disclaimant, Mallinckrodt Inc. hereby disclaims the terminal portion of the term of any patent granted on the above-identified application, which would extend beyond the expiration date of the full statutory term of United States Patent No. 6,733,744. Disclaimant, Mallinckrodt Inc., hereby agrees that any patent so granted on the above-identified application shall be enforceable only for and during such period that the legal title to said patent shall be the same as the legal title to United States Patent No. 6,733,744, this agreement to run with any patent granted on the above-identified application and to be binding upon the grantor, its successors or assigns.

5. Disclaimant, Mallinckrodt Inc., does not, by this disclaimer, disclaim any part of the term of any patent granted on the above-identified application prior to the expiration date of the full statutory term of United States Patent No. 6,733,744, in the event that later such patent expires for failure to pay a maintenance fee, is held unenforceable, is found invalid, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321(a), has all claims canceled by a reexamination

certificate, or is otherwise terminated in whole or in part, prior to expiration of its full statutory term, except for through separation of legal title as stated above.

6. I hereby declare that the statements made herein of my own knowledge are true, and that all statements made on information and belief are believed to be true; and further, that these statements are made with the knowledge that willful false statements and the like are punishable by fine or imprisonment, or both, under Section 1001, Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Fee Status and Payment

7. Disclaimant is a large entity. Upon acceptance of this disclaimer, please charge Deposit Account No. 23-3000 in the amount of \$110.00 for the disclaimer fee. Charge any fee deficiency to Deposit Account No. 23-3000.

Respectfully submitted,

WOOD, HERRON & EVANS, L.L.P.

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